

2010 JUL -6 PM 3:47 ✓

JEANNE HICKS, CLERK

BY: S. Bagnall

YAVAPAI COUNTY ATTORNEY'S OFFICE
Sheila Polk, SBN 007514
County Attorney
255 E. Gurley Street, 3rd Fl.
Prescott, AZ 86301
(928) 771-3344
ycao@co.yavapai.az.us
Attorneys for STATE OF ARIZONA

IN THE SUPERIOR COURT

STATE OF ARIZONA, COUNTY OF YAVAPAI

STATE OF ARIZONA,

V1300CR201080049

Plaintiff,

State's Objection to Defendant's Request for
Leave to Exceed Page Limits (Ariz. R. Crim. P.
35.1(B) and 35.5)

vs.

JAMES ARTHUR RAY,

(The Honorable Warren Darrow)

Defendant.

The State of Arizona, by and through Sheila Polk, Yavapai County Attorney, respectfully requests the Court deny the Defendant's Request for Leave to Exceed Page Limits (Ariz. R. Crim. P. 35.1(B) and 35.4). Defendant seeks to obtain this Court's sanction of Defendant's Motion to Compel Disclosure/Request for Sanctions and Defendant's Motion to Change Place of Trial filed on June 29, 2010, both of which exceeded the page limitations set forth in Rule 35.1, Arizona Rules of Criminal Procedure.

On July 2, 2010, the State filed a Motion to Strike both pleadings for the failure to comply with the Rule. As noted in the State's Motion to Strike, the Comment to this rule emphasizes that the rules "are intended to produce precise, but concise, pleadings in criminal

1 cases." Pursuant to Rule 1.1., Ariz. R. Crim. P., the "rules shall govern the procedure in all
2 criminal proceeding in all courts within the state of Arizona." Neither of Defendant's motions
3 raises any issue that cannot be adequately presented in the page limitation set forth in the rule.
4 By exceeding the page limitations, the Defendant forces both this Court and the State to spend
5 unnecessary time to identify legal issues and winnow through the support cited in order to refute
6 Defendant's claims. This is exactly what the Rule is designed to prevent.
7

8 Finally, while it is true that Rule 35.4, Ariz. R. Crim. P., provides for a waiver of the
9 requirements set forth in Rule 35.1, the Comment to the rule states this provision "should be
10 used primarily to allow handwritten documents to be submitted by indigents or persons without
11 counsel; it should not be used to sanction deviations from the rule which effect an opposing
12 party's substantial rights."
13

14 The State therefore respectfully requests this Court deny Defendant's Request for Leave
15 to Exceed Page Limits (Ariz. R. Crim. P. 35.1(B) and 35.4) and strike Defendant's Motion to
16 Compel Disclosure/Request for Sanctions and Defendant's Motion to Change Place of Trial.

17 RESPECTFULLY submitted this 6th day of July, 2010.
18

19
20 By Sheila S. Polk
21 SHEILA SULLIVAN POLK
22 YAVAPAI COUNTY ATTORNEY
23

23 **COPIES** of the foregoing emailed this
24 6th day of July, 2010:

25 Hon. Warren Darrow
26 Dtroxell@courts.az.gov

COPIES of the foregoing delivered this
6th day of July, 2010, to

Thomas Kelly
Via courthouse mailbox

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

Thomas Kelly
tkkelly@thomaskellypc.com

Truc Do
Tru.Do@mto.com

By: 

Truc Do
Munger, Tolles & Olson LLP
355 S. Grand Avenue, 35th Floor
Los Angeles, CA 90071-1560

Via U.S. Mail
By: 